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July 5, 2023

Via ECF

The Honorable Sean H. Lane,
U.S. Bankruptcy Court for the Southern District of New York,
300 Quarropas Street,
White Plains, NY 10601.

Re: *In re Genesis Global Holdco, LLC, et al.*, Case No 23-10063 (SHL)

Dear Judge Lane:

We write on behalf of FTX Trading Ltd. and its affiliated debtors and debtors-in-possession (the “FTX Debtors”) in the jointly administered Chapter 11 proceedings (the “FTX Chapter 11 Cases”) pending in the United States Bankruptcy Court for the District of Delaware (the “Delaware Bankruptcy Court”), Case No. 22-11068, with respect to (i) the *Motion of FTX Trading Ltd. and its Affiliated Debtors for an Order Modifying the Automatic Stay Pursuant to 11 U.S.C. 362(d)(1) and Bankruptcy Rule 4001*, ECF No. 289 (the “Lift Stay Motion”) and (ii) the Genesis Debtors’ *Motion To Establish Procedures and a Schedule for Estimating the Amount of the FTX Debtors’ Claims Against the Debtors Under Bankruptcy Code Section 105(a) and 502(c) and Bankruptcy Rule 3018*, ECF No. 373 (the “Estimation Motion” and, together with the Lift Stay Motion, the “Motions”).¹ We submit this letter to provide the Court with a status update since the June 15 Hearing.

As Your Honor will recall, two months ago the FTX Debtors filed the Lift Stay Motion on May 3, 2023 seeking leave to liquidate preference claims against Genesis Global Capital, LLC (“GGC”) arising in the FTX Chapter 11 Cases (the “FTX Preference Claims”). The hearing on the Lift Stay Motion was delayed from its original hearing date at the request of the Genesis Debtors until June 15, 2023 (the “June 15 Hearing”).

The Genesis Debtors filed the Estimation Motion on June 1, 2023 to be heard together with the Lift Stay Motion at the June 15 Hearing. At the end of the June 15 Hearing, the Court continued the hearing on both motions to July 6, 2023, and directed the parties to exchange

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Lift Stay Motion.

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information and identify specific issues to be litigated in connection with the FTX Preference Claims.²

Since the June 15 Hearing, the parties have met and conferred and have exchanged information in accordance with the Court's directive. The parties have made progress in identifying the issues relevant for liquidation of the FTX Preference Claims and the evidentiary record applicable to the Motions at this time. Specifically:

1. The FTX Debtors now have received certain information requested previously from GGC and non-debtor affiliate GGC International Limited ("GGCI") concerning transfers received from the FTX.com exchange and the financial relationship between GGC and GGCI. If that information is stipulated to by the parties, the FTX Debtors have informed GGC and GGCI that the aggregate FTX Preference Claims against GGC will not exceed \$2.0 billion.
2. With respect to the ranking of the FTX Preference Claims in the Genesis Chapter 11 Cases, the FTX Debtors have confirmed to GGC that the FTX Preference Claims are entirely prepetition general unsecured non-priority claims. Accordingly, if the stay is lifted, the FTX Debtors have agreed that a reasonable reserve to be established for the FTX Preference Claims will not be a *priority* reserve. GGC will be able to make all distributions on secured claims, priority claims and other general unsecured claims without limitation, so long as a *proportional* share of the general unsecured pool is reserved to the extent the FTX Preference Claims remain unliquidated and the parties have not otherwise agreed on a fixed reserve amount.
3. The FTX Debtors have informed GGC that this proportional reserve will be a minority of the GGC claims pool, and have proposed to stipulate the reserve at no more than 30% of the general unsecured claims pool.
4. The FTX Debtors have confirmed to GGC and GGCI that the FTX Debtors will be promptly commencing an adversary proceeding against GGCI in the FTX Chapter 11 Cases to liquidate the FTX

² Transcript of June 15 Hearing at 77:3-8, *In re Genesis Global Holdco LLC, et al.*, No. 23-10063 (SHL), attached hereto as Exhibit A ("Well, my intent was not to make a ruling today on the motion other than to direct the parties to meet and confer and to work on information exchange as well as identification of issues that might be dealt with specific issues and some issues in a more nuanced way...").

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Preference Actions against GGCI. If the Lift Stay Motion is granted (or GGC consents to lift the stay), the FTX Debtors have informed GGC of their agreement to litigate the FTX Preference Claims on an expedited schedule alongside the claims against GGCI to efficiently resolve all of the FTX Preference Actions, which the FTX Debtors believe can reasonably be achieved by setting trial approximately six months from the date the stay is lifted.³

5. As to the issues in dispute with respect to the FTX Preference Claims, GGC has provided to the FTX Debtors a list of defenses GGC intends to assert to the FTX Claims, attached hereto as Exhibit B. The list includes all the critical issues to the FTX Debtors and their creditors that counsel to the FTX Debtors identified to the Court at the June 15 Hearing, including the nature of ordinary course transfers by FTX to similarly-situated creditors during the preference period and the value of the native token FTT. In addition, GGC intends to dispute other issues that are central to the FTX Chapter 11 Cases, including the solvency of the FTX Debtors and whether the FTX Debtors do or do not own digital assets in their custody. GGC has confirmed to the FTX Debtors that they seek to resolve these issues by estimation on the merits, not merely to establish a distributional reserve.
6. The same list of defenses is relevant to the FTX Preference Claims against GGCI and will be litigated on the merits in the FTX Chapter 11 Case even if separately litigated on the merits in this Court. The Genesis Debtors' list of defenses underscores the complexity of any litigation of these issues and the importance of considerations of judicial economy as well as comity.⁴

³ The FTX Debtors believe the following illustrative litigation schedule is achievable and balances the parties' respective interests (assuming the Court grants the Lift Stay Motion and denies the Estimation Motion on "Day 0"): (i) complaint filed by Day 10, (ii) deadline to file motion to dismiss (if any): Day 35; (iii) deadline to respond to motion to dismiss: Day 65; (iii) deadline to file reply in support of motion to dismiss: Day 75; (iv) fact discovery completed by: Day 90; (v) initial expert reports due by: Day 115, (vi) rebuttal expert reports due by: Day 140; (vii) summary judgment motions due by Day 165, and (vi) trial (if necessary) to commence by Day 190.

⁴ As contemplated by the Genesis Debtors, the claims estimation proceeding will require no fewer than *four different* experts and extensive evidence with respect to issues like corporate separateness of the FTX Debtors and intercompany claims between the FTX Debtors. *In re Anderson*, 20123 WL 240748 (Bankr. S.D. Cal. 2013) (declining to estimate claims before a plan was confirmed because estimation would

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7. The FTX Debtors requested that GGC provide all information and documents available to support GGC's contention that estimation (and denial of the Lift Stay Motion to permit estimation) is necessary to avoid an "undue delay" in making distributions.⁵ In response, GGC conceded that these requests were "premature" given the status of the GGC case. Specifically, GCC has informed the FTX Debtors that the amount of assets available for distribution, whether GGC intends to establish reserves, the estimated amount of reserves and the timing and nature of distributions on general unsecured claims have "not yet been calculated or determined at this time."⁶ Accordingly, although GGC has the burden of proof under section 502(c), no information has been provided by GGC to suggest the liquidation of the FTX Preference Claims on the schedule proposed by the FTX Debtors would cause any delay, whether or not "undue" in the circumstances.⁷

require "pretty much complete resolution" of the claim due to its complexity and would require "a full-blown trial.").

⁵ Among other things, at the June 15 Hearing, Your Honor recognized that the Genesis Debtors bear the burden of proof in connection with the Estimation Motion to "show undue burden" under section 502(c) of the Bankruptcy Code, including in connection with the asserted delay in plan distributions absent estimation of the FTX Claims. Transcript of June 15 Hearing at 46:23-47:13.

⁶ *Letter from counsel to Genesis Debtors to FTX Debtors*, dated June 23, 2023 (the "June 23 Letter").

⁷ Courts generally find undue delay and estimate claims when the debtor's plan has been confirmed, all conditions to distributions have been satisfied and estimation will allow immediate distributions to creditors to flow. *Compare In re Club Ventures Inv. LLC*, 2012 WL 6139082 (Bankr. S.D.N.Y. 2012) (partly estimating and partly subordinating claims when money was ready to be distributed to creditors but for these claims requiring a reserve of 80% of the money in Debtor's escrow); *In re Enron Corp.*, 2006 WL 544463 (Bankr. S.D.N.Y. 2006) (estimating claim at \$0 so that periodic distributions required by confirmed plan could continue and when it was clear that claim had no merit because it was already dismissed in district court and had a low probability of success on appeal); *In re AMR Corp.*, 2021 WL 2954824 (Bankr. S.D.N.Y. 2021) (granting estimation when Court had already disallowed the claims multiple times, the bankruptcy case had been ongoing for ten years, the plan had been confirmed almost eight years before, and the unliquidated claim caused an interruption in distributions), *with In re Apex Oil Co.*, 107 B.R. 189 (Bankr. E.D. Miss. 1989) (denying estimation when there was no showing of undue delay and debtor's plan was not yet confirmed); *In re RNI Wind Down Corp.*, 369 B.R. 174 (Bankr. D. Del. 2007) (denying estimation because debtor did not show undue delay and stating that absent a finding of undue delay, the Court is not obligated to estimate a claim).

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8. GGC has not identified any example of a foreign bankruptcy court adjudicating the merits of a preference claim in another bankruptcy court's case.⁸

On this record, the FTX Debtors respectfully submit that the Court grant the Lift Stay Motion and deny the Estimation Motion. However, in the event the Court disagrees, the FTX Debtors request the opportunity to submit additional briefing on the important legal issues raised by the Motions in light of these developments, following the parties' appearance before the Court on July 6, 2023, as appropriate.

Sincerely,

/s/ Brian D. Glueckstein

Brian D. Glueckstein

cc: Sean A. O'Neal
Luke Barefoot
Jane VanLare
(Cleary Gottlieb Steen & Hamilton LLP)

Andrew G. Dietderich
James L. Bromley
Benjamin S. Beller
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Ken Pasquale
(Paul Hastings LLP)

⁸ See Lift Stay Motion ¶ 24 (quoting Judge Wiles' comments in the Voyager Digital Chapter 11 cases, in connection with debtor Celsius Network LLC's motion for leave to file a late proof of claim and lift the automatic stay to commence a preference action against Voyager Digital, that there is "no way" that a foreign bankruptcy court should be making determinations about customer property in another debtor's case.) (citations omitted).

Exhibit A

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 23-10063-shl

4 - - - - - x

5 In the Matter of:

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7 GENESIS GLOBAL HOLDCO, LLC,

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9 Debtor.

10 - - - - - x

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12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 June 15, 2023

17 12:26 PM

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21 B E F O R E :

22 HON SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: ALIANNA PERSAUD

1 HEARING re Doc. #432 Notice of Agenda

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3 HEARING re Doc. #289 Motion for Relief from the Automatic
4 Stay Re: FTX Trading

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6 HEARING re Doc. #373 Motion to Authorize / Motion to
7 Establish Procedures and a Schedule for Estimating the
8 Amount of the FTX Debtors Claims Against the Debtors under
9 Bankruptcy Code Sections 105(a) and 502(c) and Bankruptcy
10 Rule 3018

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2 KYLE MCKUHEN, Pro Se Creditor
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4 ALSO PRESENT TELEPHONICALLY:
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8 OXANA KOZLOV
9 ZIA LIU
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7 MICHAEL MAGZAMEN
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1 P R O C E E D I N G S

2 THE COURT: Good morning. This is Judge Sean Lane
3 in the United States Bankruptcy Court for the Southern
4 District of New York and we're here with the Chapter 11 case
5 of Genesis Global Holdco LLC, a jointly administered case
6 that is on for an omnibus hearing this morning at 11. We'll
7 start this hearing as we always do by getting appearances
8 starting with the Debtors' counsel.

9 MS. VANLARE: Good morning, Your Honor, Jane
10 Vanlare, Cleary Gottlieb Steen & Hamilton on behalf of the
11 Debtors.

12 THE COURT: All right, good morning. Obviously,
13 there are a lot of folks who entered an appearance on Zoom.
14 I know a lot of those folks are here to listen and observe.
15 So I'm not going to go through that long list, but I'm going
16 to ask for appearances from folks who have been frequent
17 participants in these hearings and then I'll open it up for
18 anyone that I may have missed. So, but -- there's no slight
19 intended, but nobody wants to sit through 20 minutes of a
20 roll call.

21 So -- but I do know the Official Committee is
22 here, so let me get that appearance.

23 MR. SHORE: Good morning, Your Honor. Chris Shore
24 from White & Case on behalf of the Official Committee.

25 THE COURT: All right, good morning. On behalf of

1 the Ad Hoc Group?

2 MR. ROSEN: Good morning, Your Honor. Brian Rosen
3 on behalf of Proskauer Rose for the Ad Hoc Committee.

4 THE COURT: All right. Good morning. On behalf
5 of the Digital Currency Group.

6 MR. SAFERSTEIN: Good morning, Your Honor, Jeffrey
7 Saferstein from Weil Gotshal & Manges on behalf of DCG.

8 THE COURT: On behalf of Gemini Trust Company>

9 MS. DIERS: Good morning, Your Honor. Erin Diers
10 from Hughes Hubbard & Reed on behalf Gemini Trust Company as
11 agent for Gemini Lenders.

12 THE COURT: All right. On behalf of the United
13 States Trustee's Office. All right, we'll see if someone
14 makes an appearance later. And then on behalf of some other
15 folks who filed pleadings in this case, and so starting with
16 folks representing FTX who are debtors in a Delaware
17 bankruptcy case.

18 MR. DIETDERICH: Hello and good morning, Your
19 Honor. Representing the FTX debtors. This is Andy
20 Dietderich and Brian Glueckstein at Sullivan & Cromwell.

21 THE COURT: All right, good morning. And I
22 believe the FTX Official Committee filed something connected
23 with today's proceedings, so let me ask if there's someone
24 here for those folks.

25 MR. PASQUALE: Yes, Your Honor. This is Ken

1 Pasquale from Paul Hastings for the Official Committee of
2 Unsecured Creditors in the FTX cases. Thank you.

3 THE COURT: All right, good morning. And so
4 again, no sleight intended. That was -- so let me throw up
5 -- open this for any other appearances, and other folks who
6 expect to participate in this morning's hearings as opposed
7 to being here for listening only purposes.

8 All right, hearing no further responses, I do have
9 a copy of the agenda which is at -- was filed on the docket
10 at Docket 432 and I understand we have two different motions
11 that are on for today, one a lift stay motion filed by FTX
12 trading and the other an estimation motion filed by the
13 Debtors.

14 So my thought would be to just take sort of first
15 in time first and deal with the lift stay motion first, but
16 you all may have chatted and come up with some other better
17 plan, and I'm always happy to hear that. So, let me hear
18 from Ms. Vanlare if there's anything -- if you have any
19 other suggestions about ways to proceed.

20 MS. VANLARE: Good morning again, Your Honor.
21 That order makes sense to us. That was the order that we
22 filed in the agenda as well.

23 THE COURT: All right. Thank you very much. So
24 with that, I will tell parties, I have read all your papers
25 so nobody needs to feel like they have to cover everything

1 that's in your papers. That's why you file papers. The
2 papers were very spirited and very comprehensive, and so
3 what I hope to do is have a dialogue about the issues and
4 have you highlight the things that you think are most
5 relevant for purposes of today. So I'll turn it over to
6 FTX's counsel.

7 MR. DIETDERICH: Thank you, Your Honor. Good
8 morning. For the record again, Andy Dietderich at Sullivan
9 and Cromwell for the FTX Debtors. I'll start, Your Honor,
10 with what I think is the most important proposition, which
11 is that both of these Chapter 11 cases are equally
12 important. The creditors of each are equally important.
13 They're proceeding in two different courts, but each of
14 these proceedings should respect the other proceeding to the
15 extent it can, consistent with its own demands and needs.

16 This particular claim that we have is not a claim
17 about whether there's a loan agreement. That's not
18 disputed. It's not a claim about whether money was advanced
19 under the loan agreement. That's not disputed. It's not a
20 claim about whether money was repaid under the loan
21 agreement. That's not disputed.

22 This is a preference claim and its nature as a
23 preference claim is what requires, in our view with respect,
24 the stay to be lifted to allow it to proceed. Because a
25 preference claim, of course, is a special federal bankruptcy

1 power that's intended to create parity among creditors and
2 intended to create parity among creditors in the FTX cases.
3 So whichever Court decides the merits of this preference
4 action is going to have to decide a number of questions that
5 are central to FTX. For example, the value of FTT. This,
6 the fact here, are that this loan was either fully or
7 partially collateralized with FTT, which is the native token
8 to FTX.

9 Resolution of the preference requires the
10 valuation of FTT which at one point had a market
11 capitalization of about \$4 billion and at our petition time
12 at hundreds of thousands of holders. There's going to be
13 two relevant valuations, valuation at the FTX petition date
14 and at the distribution date. The price of FTT is not
15 simple to calculate because there have been allegations the
16 price was subject to manipulation by Sam Bankman-Fried and
17 the other founders of FTX.

18 So the spot price may not be indicative of value.
19 Expert evidence will be required. This question of the
20 value of FTT is generally applicable to all holders of the
21 FTT token and all other stakeholders of FTX that might not
22 hold the token but object to the valuation.

23 Next, it's not just the value of FTT that's
24 interesting, when FTT is held as collateral, but it's the
25 ranking of FTT because there's allegations in our case that

1 FTT should not be treated as a claim but should instead be
2 treated as equity because it has equity like components and
3 equity like trading characteristics. So there will need to
4 be expert evidence not only as to the amount of or the value
5 of FTT, but also as to its ranking in the FTX capital
6 structure. That has to be decided for the preference to be
7 resolved.

8 Now, of course, when we talk about collateral as a
9 defense to a preference, we're talking about a question of
10 what a holder of the collateralized position would receive
11 in a hypothetical Chapter 7 liquidation of FTX. So
12 whichever judge decides the preference is going to have to
13 decide what the holder of the claim would receive in a
14 hypothetical Chapter 7 liquidation of FTX, which as Your
15 Honor may know, has about 100 debtors, 30 non-debtors,
16 liquid assets, illiquid assets, operating businesses, and up
17 to nine million creditors.

18 Now, the other thing that has to be decided for
19 the preference is the subsequent new value to this.
20 Subsequent new value will be relevant to all of our
21 preferences. We will be applying or Judge Dorsey will be
22 applying if Judge Dorsey decides our preferences, Third
23 Circuit law. It's a little unclear, but Your Honor may be
24 applying a different law, Second Circuit law to the same
25 questions if Your Honor were to hear it.

1 We also have the question of ordinary course.

2 This is the question of what constitutes ordinary course
3 transfers for the purposes of the FTX.com exchange and the
4 Alameda lending book, because the preferences here, Your
5 Honor, are actually of two different flavors. There's an
6 exchange flavor off the exchange and there's a loan flavor.
7 Alameda as Your Honor may know, was a hedge fund. It
8 borrowed money from various lending parties. Genesis was
9 one of the largest, by no means the only.

10 And so there's an ordinary course question that is
11 equally relevant to all of the preference defendants in FTX
12 about how to calculate that. Our ordinary course defense
13 though, Your Honor, or question is not an ordinary, ordinary
14 course question because our case also implicates the
15 possible fraud or Ponzi scheme exception to ordinary course.

16 We don't know where we're coming out on that yet,
17 but it's very much on the table. So whatever judge decides
18 our preferences, will have to decide ordinary course and
19 will also have to ask whether or not the Ponzi scheme
20 exception or the fraud exception to ordinary course plays a
21 role, which will require the judge not only to, you know, to
22 ask questions about whether or not FTX was inherently a
23 Ponzi scheme.

24 And to do that, not just ahead of Judge Dorsey
25 potentially in Delaware, but also ahead of Judge Kaplan and

1 the criminal trial of Sam Bankman-Fried coming up in
2 October, which involves a lot of the same facts and
3 circumstances.

4 So our proposition is that the essential nature of
5 this is very, very deeply connected to the FTX case. It
6 isn't a question, of like most of the Sonnax factor's
7 traditional stay relief to allow a litigation to continue
8 kind of cases. It's not a question of whether something is
9 decided by Your Honor or by Judge Dorsey, because we know
10 Judge Dorsey will actually be deciding every single one of
11 these issues. He'll have to decide it for the hundreds of
12 thousands of other defendants in the FTX cases, and so they
13 will be decided by him.

14 In addition, even the bilateral relationship
15 between FTX and the Genesis Debtors will also have to be
16 resolved by Judge Dorsey because the preference is relevant
17 for the 502(d) defense against any claim Genesis puts into
18 our bankruptcy. Our bar date is June 30th and also relevant
19 to the outbound preference claim the FTX Debtors have
20 against GGCI International.

21 So even if all other FTX creditors and all of
22 their interests were ignored, we still have a bilateral
23 dispute that will need to be decided in front of Judge
24 Dorsey, even if Your Honor decides not to lift the stay and
25 to litigate the matters here as well.

1 THE COURT: So let me ask you two questions that
2 that raises. One is, as we know, lifting the stay is not
3 only about what's to be decided, but about the timing of
4 what's to be decided and the impact on other proceedings.
5 And it's fairly clear and I think the one thing everyone can
6 agree upon is that the FTX bankruptcy is a complicated
7 matter. It implicates an ongoing criminal case among other
8 things, and so one of the concerns obviously that that
9 raises is the fact that if something is -- the stay is
10 lifted to be decided elsewhere, these Debtors in this Court
11 really lack essentially then any ability to control the
12 docket if that that issue has to addressed as a gating, to
13 the other things in this bankruptcy.

14 And so, while the preference issues are obviously
15 important, you've just raised a number of other things that
16 may be further up the dance card in the FTX panoply of
17 issues, and so we have no idea at this point when those
18 things are going to happen in what order and with all due
19 respect to the Delaware Bankruptcy Court and Judge Dorsey,
20 all of whom I respect greatly, they probably -- Judge Dorsey
21 probably doesn't know yet either. It may be unknowable at
22 this moment.

23 So what is it that you want me to think about when
24 thinking about that concern, about essentially saying, well,
25 if this issue, important or not to this bankruptcy, is

1 handed over to another Court to decide in whatever order
2 things are going to happen in that case; what's your
3 thinking about that issue?

4 MR. DIETDERICH: Sure. Well, I think Your Honor
5 is going to the question of prejudice, but I also don't want
6 to dodge the question about timing. So we do --

7 THE COURT: -- are interrelated, right?

8 MR. DIETDERICH: We do intend to litigate
9 preferences as quickly as we can, right, and we have
10 prioritized the liquidation of preferences against the other
11 Debtors. The first preference actions we filed were against
12 Voyager. We also have expedited the resolution of our
13 preferences into the Genesis bankruptcy and into the BlockFi
14 bankruptcy. We have three competing Debtor preference
15 bankruptcies.

16 And this question very much came up in Voyager.
17 We have a stipulated process agreement in Voyager where they
18 asked to mediate first to see if we could mediate this, but
19 we're agreeing an expedited litigation schedule in the
20 Voyager case for the resolution of the preferences that has
21 been so ordered by both Judge Wiles and by Judge Dorsey.
22 And we are happy to commit to litigate these preferences on
23 the same accelerated schedule. So that answers the question
24 -- I can't promise --

25 THE COURT: Well, it does, but it doesn't, right?

1 The best laid plans, as the saying goes. You have a
2 criminal case to also address and what can and can't happen
3 in terms of getting information and something as simple as
4 taking somebody's deposition, for example, with the pending
5 criminal case. There are all sorts of -- there's a lot of
6 things to consider. And so notwithstanding the desire to
7 litigate everything expedited basis all at once, we all know
8 there's always a question of what order things are going to
9 go in.

10 And so, much like the idea of labeling certain
11 things that's going to happen on certain schedules and
12 putting the label of expedited on it, it doesn't really
13 fully answer the question. So is there any wisdom about
14 what the criminal case means for purposes of the FTX
15 bankruptcy going forward in terms of scheduling? I mean,
16 that's sort of the --

17 MR. DIETDERICH: So we do not intend to wait on
18 the criminal proceeding before resolving these preference
19 issues. I do not think the criminal proceeding is a gating
20 item to the resolution of preferences. I do think it's a
21 question of needing to be sensitive to the relationship
22 between the factual record for the criminal proceeding and
23 the factual record we're creating in front of Judge Dorsey
24 in preference and other fraud related issues.

25 So we have some sensitivities in the FTX case

1 about not getting ahead of the government, but so far, those
2 sensitivities do not rise to the level where we need to
3 delay our case and wait for the criminal hearing, and I
4 don't think we're going to get to that point.

5 THE COURT: All right.

6 MR. DIETDERICH: (indiscernible).

7 THE COURT: Yeah, the other question that your
8 comments raised or issues discussed is you talked about --
9 let me see if I can get the language correct to you -- about
10 the bilateral relationship between Genesis and FTX and
11 you've obviously raised a concern about deciding certain
12 issues outside the confines of the FTX bankruptcy because it
13 is greatly important to the function of the FTX bankruptcy.

14 And so, when you talk about resolution of certain
15 issues about the relationship between Genesis, the Debtor
16 here, and FTX, what are the chances of that same kind of
17 concern happening in the reverse; that is, that the Delaware
18 judge is asked to, by virtue of deciding issues that you
19 want that judge to decide, making findings and rulings that
20 then are about the nature of Genesis' business, or other
21 things that will -- would otherwise naturally occur in this
22 bankruptcy.

23 MR. DIETDERICH: You know, I think the nature if
24 you walk -- if we walk through what needs to be decided on
25 the preference action, and I -- you know, I'm not, I don't -

1 - we have to resolve some factual issues about, you know,
2 loan agreement and whatnot. I think all of those should be
3 resolved by information sharing among the parties. But if
4 you assume that we know if there was a loan and what
5 payments were made, virtually all of the issues are issues
6 that relate to those things I mentioned at FTX.

7 Ordinary course is probably also, you know, is one
8 that you could see both sides of a little bit, but I think
9 ordinary course off the exchange is also going to be
10 resolved based upon, you know, the course of business of the
11 exchange and of course, the horizontal element of that test
12 about ordinary course for other crypto exchanges which is a
13 generic question. So I don't see --

14 THE COURT: Well, if I'm understanding it right,
15 you just sort of characterized it as a generic question when
16 dealing with other crypto exchanges. Well, I don't -- I
17 guess that really sort of puts a label over an issue that I
18 think I'm asking about, which is, (indiscernible) things
19 necessarily decided about what this Genesis, these Genesis
20 Debtors do and things that would ordinarily be decided here
21 that would by necessity have to be decided there. And
22 that's what I'm trying to get at.

23 I don't know exactly how that will come up, but
24 you mentioned the bilateral relationship and so, in deciding
25 that, there are questions about the business model and what

1 it all means and the legal significance of various things
2 for purposes of characterizing claims and legal rights that
3 folks have. That's what I'm -- that's what I'm trying to
4 get at, the spillover effect that that would, might
5 necessarily have on proceedings in this case, just as you're
6 worried about the reverse of the spillover effect of any
7 decisions here that might have on the FTX case.

8 MR. DIETDERICH: Yeah. And I think that's
9 something to be sensitive to, but off the top of my head,
10 Your Honor, just to think it through, I think once you
11 decide the admittedly difficult questions of what FTT is
12 worth and where it ranks and what an FTT holder gets in a
13 liquidation, then -- and you have a preference policy on
14 subsequent new value which applies irrespective of the
15 characteristics of the particular preference recipient and
16 have an approach to ordinary course of business, the rest of
17 this becomes very easy. The rest of it is just about, you
18 know, when was money received and how much was received.

19 I'm not sure that it -- it clearly calls into
20 question FTX's general behavior, but I'm not, I don't -- I
21 can't think of why a simple preference action, once you
22 resolve those issues, calls into question the behavior of
23 the recipient of the preference. And if it does, perhaps we
24 can have some, you know, some -- I think it's something we
25 have to, you know, stay sensitive to.

1 I think in some ways Your Honor's question goes to
2 the opposite end of the spectrum, the opposite end of the
3 side of the scale, which is prejudice, right? So where's
4 the prejudice to the Genesis Debtors from lifting the stay?
5 And I think Your Honor is rightly focused on what I think is
6 cognizable prejudice. I think there's a lot of allegations
7 from the Debtor I would call not cognizable prejudice, such
8 as the fact that there's a condition in the plan that they
9 put in the plan.

10 I think that one of the things that's confusing,
11 and I want to make sure that our position at least is clear
12 on, is prejudice isn't -- the FTX case was first filed and
13 the Genesis bankruptcy, like any bankruptcy, takes the world
14 as it finds it on its petition. So the fact the claim
15 exists isn't prejudiced.

16 The fact it is a preference claim isn't prejudice.
17 The fact it's related to other claims and has a relationship
18 to the FTX venue is a pre-existing fact. It's not
19 prejudice. The fact it's large isn't prejudice. The fact
20 that it might have merit or we believe has merit isn't
21 prejudice.

22 All of those things are just part of the facts and
23 circumstances of the Genesis bankruptcy and the job of any
24 bankruptcy, as Your Honor knows, is to respect as best we
25 can the relative value of people's prepetition entirely, so

1 their starting positions. And part of the starting position
2 of this case is the preexisting FTX case and the existence
3 of all the preferences that arose by operation of law when
4 FTX filed on November 11th.

5 So there's, that's not prejudice. The question
6 of, should the stay be lifted and what's the prejudice from
7 the Genesis Debtors of lifting the stay, I think you're
8 pointing on the one cognizable prejudice that we have found.
9 How do the issues that have to be decided, the actual issues
10 that have to be decided for the preference, are they more
11 closely related to the Delaware bankruptcy case and the
12 interests of the other Delaware creditors or are they -- are
13 these issues more closely related to Genesis and Genesis
14 creditors?

15 Now, of course, Genesis creditors have an interest
16 in how this is resolved and so they have an interest, but
17 what's interesting, I think, about the Genesis creditors'
18 interest versus the FTX creditors' interest -- and let's
19 contrast. The FTX creditor has an interest in how this is
20 resolved because it affects the FTX creditors' own claim
21 against FTX. You value FTT one way, it affects that
22 person's actual claim against FTX, not their relative
23 recovery, their actual claim.

24 The Genesis stakeholders have a very important
25 stake in this because it depends on how much money either

1 FTX gets from Genesis or Genesis gets from FTX. But as I
2 think they're joiners illustrate, it's a me too. It's a
3 yeah, we want the Debtor to win but whether the Debtor wins
4 or loses here, we have not been able to identify and I'd ask
5 the Debtors to think about it and the other people on the
6 Debtors' side to speak about it here.

7 We've not been able to identify any of the issues
8 that rise to that kind of level, something that would be
9 decided by Judge Dorsey that would affect not the recoveries
10 in the case, but would actually affect in some way the
11 rights of stakeholders in the case, such that the Debtor
12 wasn't a good proxy for them, right, in simply trying to
13 prosecute the recovery.

14 And to me that's an important element of where
15 this goes. So we would submit that if you do the classic
16 lift stay analysis, we believe we have very compelling
17 evidence of prejudice to FTX if the stay is not litigated
18 and -- lifted and these matters are litigated in front of
19 Your Honor because of the sheer number of stakeholders that
20 have an interest in these matters in FTX and would not be
21 fully heard in this case.

22 We do not see much of anything on the other side
23 of the scale. We dismiss entirely the fact that this claim
24 is big or, you know, reserves or whatnot. I would note
25 respect to that, that the plan condition kind of can't be

1 prejudiced. A plan can't make its own prejudice. In
2 particular, this plan condition, if you read the plan
3 condition, it demonstrates there is no prejudice for lifting
4 the day by the very nature of the condition because the
5 condition only applies at effectiveness and it's not -- if
6 it's a condition that the claim be estimated by you, but
7 it's not a condition there be any particular result of the
8 estimation.

9 If it's zero, the plan works. If it's 3.2
10 billion, the plan works. It works regardless, their plan.
11 Of course, because it's a liquidating plan. This isn't a
12 case where there's a reorganization that requires something
13 to be decided. This is a liquidating plan. Voyager is a
14 liquidating plan. Celsius is a liquidating plan. FTX is a
15 liquidating plan.

16 And so there -- that plan condition itself can't
17 be prejudiced, but what can really be prejudice is what Your
18 Honor put your fingers on. We just don't see it on the
19 other side of the case, on the particular issues to be
20 decided in the preference.

21 THE COURT: So I take your point about the way you
22 view statements made by the Debtors about the prejudice, the
23 plan, the time delay. My concern is that there are
24 certainly some statements in the papers that make it sound
25 like there's a -- that implies sort of the FTX Debtors sort

1 of cross the line in having a little more to say about what
2 the plan looks like and doesn't look like. So I understand
3 the notion about simply saying something doesn't make it so,
4 but there's a -- there are some statements that say, well,
5 you could do lots of ways.

6 You could do a plan, you know, lots of different
7 ways here that don't accomplish -- that avoid these issues.
8 And of course, FTX is in charge of its case and -- as a
9 Debtor in Possession and having a plan and the Genesis
10 Debtors are here.

11 So I wasn't quite sure how to take some of those
12 comments in the sense I understand the analysis about, well,
13 what does it mean to have a large unsecured claim, what does
14 it mean under the Bankruptcy Code, what -- where in the
15 critical path does it fall in terms of determining what does
16 it prevent things from happening or what things doesn't it
17 prevent?

18 But there are a lot of statements about the plan
19 and, well, Judge, we have these views. The plan isn't
20 problem. You could do these things lots of different ways.
21 And I wasn't quite sure what you wanted me to take from
22 those because they -- that seems to sort of cross the line a
23 little bit in terms of telling -- saying like, well, in your
24 view, if it was your case, you'd run it this way, but that's
25 obviously not how it works.

1 So what did you want me to take from those
2 comments?

3 MR. DIETDERICH: Well, Your Honor, we wrote that
4 before we had any idea what was in the plan. So we had not
5 seen a plan or been invited to the mediation or knew what
6 was in it. And what we feared was a plan that was going to
7 set up like they tried in LightSquared, which is a very
8 interesting precedent, Your Honor, by the way, where there
9 was a condition built into a plan that was trying to use the
10 engine of organization to say we're reorganizing so
11 therefore, we need the estimation power in order to
12 reorganize.

13 Not knowing what was in the plan, we wrote those
14 words in the pleading saying that the plan is really their
15 choice and their choice of plan can't be prejudice. What's
16 happened since is they filed their plan and their actual
17 plan as filed is a liquidating plan that is completely
18 consistent with simply resolving the merits of this claim,
19 just like the merits of the \$1.2 billion claim they have for
20 the Gemini in -- you know, for the Gemini creditors.

21 So we wrote that before we saw the plan. Now
22 we've seen the plan. It confirms that even on their own
23 plan, the particular plan they picked out from all possible
24 plans, is one that also does not require resolution of this
25 claim on the merits in any particular amount, not for plan

1 formation, not for voting, not for confirmation. It's
2 simply a question of distributions and how quickly they can
3 make distributions to who and how we establish an
4 appropriate reserve.

5 I also, Your Honor, would -- I don't know if,
6 partly the two matters here are so closely related,
7 estimation. You know, I'm happy to talk to, you know, some
8 of the developments in the way this relates to their plan
9 formation, but perhaps we should --

10 THE COURT: So here's --

11 MR. DIETDERICH: -- estimation to do that.

12 THE COURT: They are related. I think what I'm
13 going to do is hear from Ms. Vanlare in connection with the
14 opposition to the stay relief and then she'll segue the
15 estimation and I'll come back to you. So it gives everybody
16 whose motion it is the chance to be heard first. But you're
17 right, they are interrelated.

18 So anything else that you wanted to address before
19 I hear from the Debtors?

20 MR. DIETDERICH: No, Your Honor. We would just
21 rest, as I said, on this motion on the balance of harms, as
22 I mentioned, the difference between, you know, the
23 relationship of the issues with FTX versus not all issues,
24 but these particular issues we think are more appropriately
25 heard in front of Judge Dorsey. So thank you very much for

1 listening to us today.

2 THE COURT: Thank you. So let me hear from
3 Debtors.

4 MS. VANLARE: Yes, thank you, Your Honor. Jane
5 Vanlare, Clear Gottlieb Steen and Hamilton on behalf of the
6 Debtors. Your Honor, as the Debtors, we strongly oppose the
7 relief that's sought by FTX in this motion. I'd like to
8 note that in the papers and even, you know, just now in Mr.
9 Dietderich's presentation, the entire focus has been on the
10 prejudice and on the effect that lifting the stay would have
11 on FTX and its creditors.

12 Your Honor, this is exactly the opposite of what
13 is required under the relevant standard in the Second
14 Circuit in this district and that's the Sonnax factors. Mr.
15 Dietderich sort of brushed them aside, but in fact, that is
16 the relevant standard before this Court in evaluating this
17 relief. Your Honor, I'd like to go through the Sonnax
18 factors and we believe that most, if not all, in fact, weigh
19 against lifting the stay. The only one that FTX is really
20 focused on, and I think we heard it just now, is the balance
21 of the harms. That's one of the factors and I'll certainly
22 address that one as well.

23 THE COURT: So let me just interject for a second.
24 I do have and I think I have it tab on it -- in fact I do --
25 of your application, the Sonnax factors in -- starting at

1 Page 7 of your opposition. So I certainly have that and I
2 did find that to be quite persuasive in going through the
3 factors. I guess my question here is in -- to pick up the
4 thread of the question I asked Mr. Dietderich, right.

5 There's always that issue about the substance of what's
6 going on, but there's also an issue about the timing. So
7 I'm trying to figure out the motivations and the Debtors'
8 view.

9 If you look at the issue sort of in those two
10 broad categories, because I certainly understand, the
11 concern about timing in the sense of, again, as I said to
12 Mr. Dietderich, I don't know how quickly, when things are
13 going to get decided, absent cloning technology by Judge
14 Dorsey, have a lot on his plate to get through, but I guess
15 my question is, how do you think about your objection in
16 terms of timing versus substance and trying to thread that
17 needle because certainly I understand the impact on this
18 case, but there also are certain things in terms of talking
19 about certain aspects of the FTX case that are going to be
20 more widely applied in that case and how do you thread the
21 needle.

22 Is it -- is the timing component the thing that's
23 crucial here in the sense of, Judge, they're going to get to
24 these issues, but they shouldn't get to them now, you should
25 lift the stay and we have some things that we need to do?

1 How do you try to work through those two sort of motivating
2 factors here?

3 MS. VANLARE: Yes. Your Honor, I think both are
4 important, both are motivating factors. I think you're
5 absolutely right. Timing is a huge component of this and I
6 think that it's very important for the reasons that we've
7 argued in these papers and the estimation papers, right? We
8 have a confirmation timeline that we're moving along in
9 parallel to the plan and confirming the plan we filed. We
10 have been in discussions with our stakeholders. We've -- as
11 Your Honor knows, we've been in a mediation. We're trying
12 to resolve certain very important issues to our cases,
13 trying to reach consensual plan.

14 Estimating these claims on that timeline is a
15 necessary component to any kind of consensual settlement of
16 those claims, so the timing is really crucial. In addition
17 to the fact that, as you pointed out and as we've said, I
18 think nobody disputes, right, the sheer magnitude of these
19 claims which we obviously dispute is extraordinary here
20 compared to our total claims pool to our liquid assets.

21 And so obviously, there's enormous impact on
22 distributions and the timing of those distributions. So
23 that's the timing piece, but I'd like to address the
24 substantive point as well. Mr. Dietderich identified
25 certain issues that he thinks will be important in these

1 preference claims and ^actually think that there are many
2 other issues, factual and legal, that may be relevant and
3 that'd be more significant than the ones he identified.

4 And you know, FTX, obviously a cryptocurrency
5 case, we're a cryptocurrency case. We have avoidance
6 actions against our creditors. There are many issues here
7 that are important to these cases and to other parts of
8 these cases that we think Your Honor should decide. And
9 this is one of the things we've pointed out in terms of the
10 impact that resolution of some of these issues will have on
11 our estate and our creditors, which again, I would posit, is
12 by far the more relevant inquiry under the law.

13 The -- so I think that's the timing and the
14 substance. I mean, there are other things like obviously
15 litigating these claims in the Delaware Bankruptcy Court
16 would impose additional costs.

17 THE COURT: Let me back up for a second. You
18 talked about the litigation taking place here that will have
19 an impact on the resolution of the case more broadly. So
20 what are those specific issues? You mentioned you had some
21 in addition to what Mr. Dietderich identified and sort of as
22 a counterpoint. So what would some of those be?

23 MS. VANLARE: Well, for example, he focused on FTT
24 and the valuation of FTT as collateral. There were other
25 digital assets that served as collateral, not simply FTT.

1 There was several loans that were extended and repaid on the
2 Alameda GGC side. So I think there are -- I don't think the
3 issues as characterized really reflects the, I think, what
4 will be the key issues in in the preference litigation.

5 THE COURT: So let me drill down now a little bit.
6 What are some of the other things that were used as
7 collateral that you would expect would -- the nature of
8 which would come up in the context of litigation, whether it
9 be here or elsewhere, but particularly focusing on here?

10 MS. VANLARE: The -- so the Genesis Debtors had a
11 number of digital assets. The Bitcoin, ETH, Solana. There
12 were stable coins, just off the top of my head, Your Honor.
13 It's not simply FTT.

14 THE COURT: All right. And am I understanding
15 your position correctly in saying that when Mr. Dietderich
16 calls out the nature of and the value of FTT and sort of the
17 ranking of it, of FTT in the capital structure and any other
18 some impacts that some commenting on the nature of FTT might
19 have in terms of ripples in litigation, from your point of
20 view these other collateral -- are they similarly postured
21 that way in the sense of I'd have to make similar
22 determinations that would have similar consequences?

23 MS. VANLARE: Your Honor, if that's the nature of
24 the defense, yes. The same reasoning would apply to other
25 types of digital assets, right, it's not just FTT.

1 THE COURT: All right. And can you give me a
2 little more background as to the two you mentioned and the
3 other ones that you wanted to mention in terms of
4 understanding their significance in the Debtors' business
5 model? Again, because what I think I'm hearing is that,
6 Judge, if -- we need you to lift the stay because Judge
7 Dorsey needs to weigh in on these significant issues.

8 Those issues will have ripple effects, not only
9 there but in the entire case because you're talking about
10 the nature -- you know, for example, Judge Glenn just
11 recently issued a decision about who owns what property in
12 his cryptocurrency case.

13 That sort of plays forward in the case and has
14 ripple effects not only on that for the folks involved in
15 that decision, but in the case generally, and so I'm
16 understanding his view that Judge Dorsey is going to need to
17 weigh in on these things, and in fact, he is going to weigh
18 in on these things, even if he doesn't do it in connection
19 with a relationship with Genesis. He's going to have to do
20 it elsewhere, and so that's the inconsistent ruling issue.

21 So I'm just trying to sort of see if I -- as a
22 thought exercise, if I'm understanding this correctly. If
23 this is an analog sort of -- there's an analog for the
24 Genesis Debtors in terms of the kinds of collateral that
25 you've just mentioned and how that all works -- which is,

1 sort of means dipping a toe in the business model for me, at
2 least for purposes of today. So be helpful to get some sort
3 of factual context.

4 MS. VANLARE: Sure, Your Honor. I mean, one other
5 thing to mention, the loans, the loan agreements between
6 Alameda and GGC are very similar to the loan agreements that
7 existed between GGC and a number of its other creditors. So
8 again, I think it's not fair or accurate to focus on certain
9 isolated issues which again may or may not be important in
10 these -- in the resolution of these claims.

11 There's a host of issues that are important as a
12 factual and legal matter to our creditors and our estate,
13 and I think that when you consider that plus the timing,
14 which again is, I would posit, only relevant to one or maybe
15 two of the factors out of 12 and all the others clearly
16 weigh in favor of, or I guess, against lifting the stay in
17 favor of keeping it here.

18 THE COURT: So let me understand. If you're --
19 again, just to sort of push the contours of your argument,
20 is your argument to say, Judge, we should never lift the
21 stay because these things need to be decided here and that's
22 the way it is. We have our case, they have their case, and
23 there's going to be some inevitable overlap, and that's just
24 the way it is. Or is your argument well, Judge, we're not
25 saying never, but we're saying certainly not now and we need

1 to see or maybe there will come a time when it's
2 appropriate. But it's not now, so I'm just trying to
3 understand sort of the contours of where you are.

4 MS. VANLARE: I think it's the former, Your Honor.
5 I think it's certainly not now and we don't think that it's
6 ever going to be appropriate, but it's certainly not now and
7 we think that the effect that lifting the stay will have on
8 these estates and our creditors is extremely negative and we
9 think that that's the key consideration for Your Honor.
10 It's not sort of, you know, equal, you know, everybody's
11 important. That's not the relevant inquiry under the Sonnax
12 factors.

13 THE COURT: All right. So I know that Mr.
14 Dietderich cited some protocols in Voyager, but they're
15 stipulations and stipulations are things where parties
16 decide that in the grand horse trading that goes back and
17 forth that they've reached something that makes sense for
18 them. Certainly there is, if your view is closer to the
19 former than the latter, my earlier question, then I'm just
20 trying to understand the sort, of the world view on a
21 broader scale.

22 Does that mean when we have these kinds of
23 circumstances where there are issues inevitably that the
24 judge in their -- in the case pending in front of them will
25 decide things that will have -- could be at odds, could have

1 implications in other -- another case such as FTX and vice
2 versa, is the -- is your sort of worldview that while the
3 chips fall where they may, that people litigate the claims
4 in their cases and that's what they do?

5 I mean, how do you decide what goes where? If the
6 idea is well, Judge, what relates to your case should be
7 decided by you, what relates to that case should be decided
8 by them; certainly, we've seen there are procedures you can
9 use in the bankruptcy process that might say, well, what's
10 in my case versus what's in your case is somewhat malleable.

11 And so what -- if the idea is that each case
12 should decide the issues that need to be decided in their
13 case, come what may, how do I decide that in terms of what
14 are the rules of the road, then, for people to stay in their
15 own lane? If you say, well, we have to be primarily
16 concerned about the prejudice to folks in each of the
17 individual cases our motion to lift stay is pending?

18 MS. VANLARE: So Your Honor, I think -- first, I
19 think we all acknowledge that -- and Your Honor has said
20 this earlier as well, that the FTX cases are not as far
21 along as these cases. They're extremely complex. There are
22 many, many issues involved. So I don't know when these
23 issues may be litigated and these other preference claims in
24 the FTX cases. I don't know.

25 We have asked, and I know we're sort of taking

1 these issues separately, which makes sense, but in the
2 estimation motion, I think we've proposed a timeline. We've
3 made arguments as to why we believe we're entitled to
4 estimation on a particular timeline by this Court, which by
5 the way is another argument for efficiency and so we're
6 concentrating the decision making here.

7 But should there be a decision that comes out in
8 another case that Your Honor thinks is relevant in your
9 determination, you know, I think that you, I'm sure that's
10 not a unique situation, right? That happens all the time
11 and there may be similar issues decided by other Courts and
12 Your Honor may or may not be persuaded. So I don't think
13 that that really should weigh in on the decision as to
14 whether to lift the stay.

15 THE COURT: All right, so I don't know if you have
16 anything else, particularly on the lift stay that you wanted
17 to address or if you wanted to segue to the obviously
18 related estimation motion. I think Mr. Dietderich earlier
19 recognized the obviously interrelated nature of them. So
20 I'll leave that to you, Counsel, so where do you want to go
21 next?

22 MS. VANLARE: I would just note, Your Honor, again
23 that the -- that under the caselaw, the burden is on the
24 movant. FTX has an extraordinary -- has to make a showing
25 of extraordinary circumstances to overcome that burden as an

1 unsecured creditor and they have not made -- they've not met
2 that burden. They've not even tried to show extraordinary
3 circumstances. And again, under the case law, I think that
4 the stay should not be lifted in these cases.

5 THE COURT: So since you mentioned the factors,
6 let me ask you. I think I know the answer based on sort of
7 the consequences of what you've already said, but there's
8 obviously factors that we all look at, again laid out very
9 well in your motion. But one of them is whether lifting
10 stay will interfere with the Debtors' reorganization, right?
11 And that's, I think the one you're sort of leading with
12 here.

13 And I think Mr. Dietderich is sort of invoking the
14 balance of the harms, I think, is where his concerns in
15 terms of the FTX Debtors and stakeholders, where their
16 equities lie. And one is, I want to know if you agree with,
17 if that's where some of these things sort of fall in the
18 test, and then second is, how do I understand that?

19 I think your argument really is that the --
20 because it's a separate factor, that the interference of the
21 organization is something that's specifically called out
22 therefore, while he certainly has some legitimate concerns
23 about his case, the lift stay motion was filed in this case
24 and that's why this case is the focus. But I want to make
25 sure I understand your argument.

1 MS. VANLARE: No, I think that's exactly right,
2 Your Honor. There are 12 factors. There are some cases
3 that do say that certain factors are perhaps more important
4 than others. I think we've, for that reason, focused on
5 some of them, but I don't think that means we ignore the
6 others. I think, you know, we haven't ignored them. We've
7 gone through them. You're right, we focused on the
8 interference in our case which we think clearly weighs
9 against lifting the stay.

10 Balance of harms, I think as Your Honor said, we
11 understand that there are certain issues that the FTX
12 claimants have mentioned. But again, even that factor, I
13 would say, weighs against lifting of the stay or is at best
14 neutral, because we too have harms that would ensue if the
15 stay is lifted. So if you look at that factor, I don't
16 think it weighs in favor of lifting the stay.

17 I think another point that I think we noted in our
18 papers and I just want to mention here as well is, you know,
19 FTX has filed proofs of claim, claims against our estates.
20 And so, in doing so, they've submitted to this Court's
21 jurisdiction. We think it's entirely appropriate that
22 claims be adjudicated by Your Honor in these cases.

23 THE COURT: All right. So with that, let me ask
24 you about the estimation motion. So certainly a focal point
25 of FTX's comments are that sort of a challenge to the

1 statements made in the plan as a basis for of a finding of
2 undue delay, that simply saying hey, we put this in as a
3 condition. Doesn't necessarily make it a condition. It
4 makes it a statement in a plan.

5 And so, and that kind of implicates down the road,
6 the question of estimation for what purpose and certainly
7 there's some discussion in FTX's papers about estimation for
8 voting as opposed to estimation for claim. And it being an
9 unsecured creditor and also not knowing sort of what the
10 other, the numerator or denominator, that is what money is
11 available and the calculation.

12 And frankly, as a bankruptcy judge, I'm interested
13 in that just because at a certain point, people have a sense
14 of what they're actually fighting over in terms of actual
15 dollars. because the amount of money spent in a bankruptcy,
16 ideally should be somewhat proportional to the amount of
17 money at stake, and we all have seen plenty of cases and
18 plenty of issues that get resolved once people know what the
19 actual dollar figure is that they're actually fighting over.

20 So I think I've asked you several questions at
21 once. So I'll let you answer them in any order you'd like.

22 MS. VANLARE: I will do my best, Your Honor, and
23 if I -- if there's one I haven't addressed, please let me
24 know. So I think in terms of now moving into our grounds
25 for estimation, I think in terms of undue delay, there are

1 at least two ways in which estimation is necessary here
2 because not doing so will result in undue delay. One is the
3 timing of distributions, which under the, you know, the
4 relevant standard is that's one of the reasons.

5 And that's sort of irrespective of the plan
6 structure and just looking at, you know, pure math here,
7 right, which we've identified in our papers, the asserted
8 value of these claims, which again, we disagree with
9 wholeheartedly frankly, but the asserted value is so large
10 in relation to our other claimants, our liquid assets, that
11 clearly the timing of distributions here would be
12 substantially delayed and I think what makes this case
13 perhaps somewhat different than other cases where you might
14 hear the same argument is that here, we actually, we are
15 proceeding speedily to confirmation to emergence.

16 We have a schedule and so, we have sort of a point
17 in time that's very near where we're hope to emerge, where
18 we're hoping to commence distributions, and having these
19 enormous asserted claims out there essentially would prevent
20 that from happening, which is highly prejudicial to our
21 other creditors and which, again, is one of the reasons why
22 the code allows us to estimate.

23 THE COURT: So but let me -- at the risk of never
24 getting to the other questions, sort of dig into that
25 because thinking about this as a litigation matter and

1 trying to put sort of details together, part of me says, I -
2 - so the code says you're allowed to estimate if you can
3 show undue delay. Certainly, that clearly would be an issue
4 for purposes of distribution. That's sort of a low hanging
5 fruit.

6 Of course, if you push it to its logical
7 conclusion, that means that you could estimate any claim at
8 any time because liquidation of a claim will always take
9 more time than estimation. So I think the case law is a bit
10 more nuanced than perhaps the language of the code is. So
11 part of me wonders that -- whether sort of a step-by-step
12 process here is something that makes sense, right? Because,
13 you're entitled to estimate if you can show undue burden.

14 Clearly, the distribution aspect, I don't know
15 that anybody disputes that. So we're talking about a plan
16 and that's nice, but I don't know that we necessarily -- if
17 you have it for distribution, whether you really need to get
18 into it for purposes of a plan.

19 But doesn't it -- does it make sense to try to
20 figure out what we're talking about first a little bit, in
21 the sense of there are lots of discussions about discovery
22 on the claim and then figuring out what a claim objection
23 might look like, therefore, setting the stage for what an
24 actual liquidation of the claim would look like and then you
25 compare that to an estimation because then you say, well,

1 here's what the claim objection is.

2 Here's what the issues are in dispute, here's what
3 we need experts on and now, Judge, we can make a better
4 sense of what an estimation process should look like and we
5 can also -- you, Judge, can make a better estimation of what
6 a delay would look like because we can tell you what liquid
7 -- full blown liquidation of the claim is. And by the way,
8 maybe we're able to go ahead with the plan in the meantime
9 because the delay really comes in the context of the
10 distribution aspect for what is an unsecured claim. So I'm
11 just trying to -- so I'm going away from the theoretical to
12 the very brass tacks aspect of it.

13 MS. VANLARE: So --

14 THE COURT: So what's your thoughts about sort of
15 taking this in a much more incremental step-by-step basis?

16 MS. VANLARE: So here's the other issue we face,
17 Your Honor, and this is our other reason for estimation. So
18 as I mentioned, we -- and again, we've said all along, we're
19 trying to get to a deal. We're trying to get to a global
20 deal. We think that will be incredibly value maximizing
21 because again, unlike in a lot of other cases here, there's
22 substantial litigation overhang, substantial claims. We
23 think that a settlement here would be value maximizing. A
24 necessary component to that settlement for, you know, among
25 other things, the reason you articulated, right, people need

1 to know what they're agreeing to, they need to know how much
2 money is at stake, how much money is there. This is such a
3 enormous asserted amount relative to the rest of the claims
4 pool that any kind of global settlement requires that these
5 claims be estimated, right?

6 So that's the other piece of this and you'd
7 mentioned, now, why not take sort of a more graduated
8 approach, right, you know, in terms of the types of issues.
9 So to that, my response would be, first of all, I don't
10 think it's disputed that sort of a standard litigation claim
11 objection in these cases would take substantially longer
12 than estimation. I think that was in the papers of FTX, of
13 the FTX Committee. I think that everyone sort of assumes
14 that to be true.

15 Now, in terms of -- you know, we tried to propose
16 a timeline that we thought was sort of as long as our cases
17 can afford and that we think will provide for a fair
18 process. We think it's clearly expedited, but we also think
19 that it's possible to do it on that timeline if the parties
20 are efficient and we think we can be.

21 If -- now the challenge to sort of doing multiple
22 phases or adding more sort of interim timelines in there is
23 we're concerned about the confirmation as kind of our
24 goalposts, the ending date.

25 THE COURT: Well, I understand that. I guess my

1 thought is these things sort of have to happen anyway,
2 right? For there to be an estimation, I think we have to go
3 through discovery because you have to know what the fight is
4 and in order to estimate, any case that I've ever seen where
5 there's estimation, people say, well, here's the issue you
6 have to decide, Judge. Right?

7 So, and sometimes people say it's a pure legal
8 issue which means estimation is really basically legal
9 briefing, or Judge, it's a combination of fact and law, or
10 there's some key factual question. And I can't make an
11 intelligent decision about what estimation looks like
12 without sort of having the comparator.

13 And so I guess my thought would be that that's
14 against the backdrop of understanding that if we're talking
15 about distribution, yeah, you -- there's no way you can
16 distribute until you deal with this claim. There's just no
17 way.

18 But it may free up the -- we have to do this
19 anyway and then we can come up with a -- if we leave today
20 or sometime shortly after today with a schedule that
21 essentially is sort of the first part of what you were
22 hoping to get anyway and then we revisit what estimation
23 looks like, and then maybe the next time we get together, we
24 have a better sense of how it would fit or not fit within
25 the plan and what's actually needed to do for purposes of a

1 plan, because we all know obviously distributions, it's the
2 whole point, but a plan is a huge milestone to get to.

3 So if you get to a plan -- we had a lot of this in
4 American Airlines trying to figure out who got what and
5 putting reserves in and allowing distributions and it all
6 happened after confirmation because the clear message was,
7 Judge, right now, we have everybody holding hands together
8 to get this plan done, and so it needs to get done while
9 people are still holding hands, and that sort of by
10 definition has a certain expiration date.

11 And so I think we can be respectful of that while
12 still being mindful of the undue delay in distribution and
13 sort of -- but it allows me to not have to think about these
14 things with too many variables that are currently unknown or
15 aren't on the record in terms of making appropriate
16 findings. So that's where I'm coming from it.

17 MS. VANLARE: So, Your Honor, I think we are, you
18 know, we've got a confirmation timeline. Obviously, we all
19 know that sometimes timelines shift and we would certainly
20 be open to conferring in good faith with the FTX claimants
21 about extending the timeline should that occur, of course,
22 with Your Honor's permission.

23 However, I think that the general sense of the
24 timing is that we need these claims to be estimated on a
25 relatively quick basis. And my concern with what I think

1 Your Honor is suggesting is that I think that in order to
2 make sure there is time for factual discovery, for expert
3 discovery, and for briefing, we really need to have the
4 parties committed to proceeding on the schedule that we
5 outlined or something close to that schedule.

6 THE COURT: Well, again, my thought is I'm
7 wondering whether half a loaf does it without prejudicing
8 anybody's rights to seek the second half of the loaf;
9 meaning that we need to set a discovery schedule, right, and
10 we need to figure out the -- essentially the terms of
11 engagement, what is actually in dispute, because I don't
12 know what we're estimating. Nobody shows up and says, well,
13 here's the claim, what do you think. I mean, right?

14 There's an issue. We have to know what the issue
15 is that's in dispute and so we've got a -- we've got --
16 that's the threshold things that have to happen and then we
17 can figure out everything else. So I'm not trying to -- in
18 a way, it's -- the two motions echo each other, in the sense
19 that 13 years in this job has not allowed me any better
20 ability to predict the future, and so we -- I find myself
21 thinking that, jeez, but we'll know more in a month, whether
22 it's about the nature of the claim or it's about the nature
23 of what's going on in the FTX bankruptcy or what's going on
24 in this bankruptcy for purposes of both of these motions.

25 And so I guess that's -- I think I beat that dead

1 horse enough. So other -- so, but it does sort of tie into
2 the undue delay. I think the issue about distribution,
3 there's clearly -- I don't even know there is a dispute
4 about that for purposes of undue delay. I think there's a
5 dispute about undue delay for purposes of a plan, but my
6 question is how much from your point of view, do I need to
7 get into that, if I have the undue delay issue for purposes
8 of distribution, assuming that in the next month or so, you
9 expect to be able to take that next step with a plan.

10 MS. VANLARE: Well, Your Honor, I think, of
11 course, if you find that the undue distributions is
12 deficient then, you know, we think that's all you need. The
13 second piece is also important. Obviously, we've been in
14 discussions. You know, we can't guarantee that we'll get
15 there. We can tell you they've been -- we've been trying
16 very hard and, you know, we're very much in that process and
17 we're hoping to get there.

18 I think -- again, I think, my chief concern is
19 how to keep the estimation process on a timeline. I think
20 what you're suggesting is another interim check-in, so to
21 speak. I think, you know --

22 THE COURT: Well, I think where I'm headed is
23 essentially a partial grant to say that for purposes of
24 distributions or you can call it a partial grant or you
25 could call it that for purposes of the case, we need to do

1 the following, which is that there needs to be a discovery
2 schedule and then there needs to be some sort of way by
3 which folks can identify what are the issues that have to be
4 decided in estimation. They obviously are, estimation is
5 comparative.

6 What does the liquidation process look like versus
7 what is the estimation process look like? Is the
8 liquidation process three days, three weeks, three months
9 versus -- it all informs each other, so my thought is that
10 we have to do that all anyway, in order to make -- so to the
11 extent your motion is saying, Judge, estimation is in the
12 code, we think we think it's appropriate in this case, it's
13 in the code. It's not a value judgment that I make. It's,
14 the question is whether I can make the finding of undue
15 delay to -- that is necessary to allow estimation and then
16 the devil's in the details as to the procedures.

17 So my thought is that it sounds like no matter
18 what else you do in the case, there needs to be discovery
19 that needs to be -- essentially you can call it plan
20 discovery. Call it estimation discovery. You can call a
21 lot of different labels. but it's discovery on what is an
22 incredibly large claim that clearly has a significant impact
23 on the case.

24 And so I don't want to get caught up on labels,
25 but I think it's essentially what you all are seeking and I

1 don't know that I've heard from Mr. Dietderich other -- sort
2 of a difference of opinion on the notion of having discovery
3 because much of his papers focus on, Judge, we don't know
4 what we're fighting about and we need to sort of figure some
5 things out with the understanding that he thinks some of
6 these things need to happen in another forum. But even if
7 you assume for a second his argument that certain things
8 need to be finally decided in another forum, that doesn't
9 necessarily preclude an estimation in this forum for
10 purposes of the case moving forward, whether it be for plan
11 voting or for some other purposes.

12 So, but again, I'm not asking questions at this
13 point. I'm just trying to give you a sense of where I am
14 and what the thinking is, but I do want to make sure to hear
15 from you any other points you wanted to make on estimation.

16 MR. DIETDERICH: Sorry, was that addressed to me,
17 Your Honor?

18 THE COURT: No --

19 MR. DIETDERICH: -- Ms. Vanlare?

20 THE COURT: -- Ms. Vanlare and then yes, I
21 definitely --

22 MR. DIETDERICH: Thought so (audio drops)
23 response, so I want to make sure I wasn't --

24 THE COURT: No worries.

25 MS. VANLARE: Thank you, Your Honor. I'm just --

1 if you give me one minute, I just want to look over my
2 notes. I know we --

3 THE COURT: That's --

4 MS. VANLARE: I think we've covered --

5 THE COURT: -- entirely appropriate. I had more
6 than a few judges in my prior life lay waste to my carefully
7 crafted presentation and (audio drops) check my notes. It's
8 fine. I apologize for doing violence to your presentation.

9 MS. VANLARE: I think, Your Honor, I'd like to --
10 I think I've hit on the main points. If there's any -- you
11 know, I'd like to be able to respond, of course, to any
12 points made by Mr. Dietderich, but I think I've made the key
13 ones so far.

14 THE COURT: All right, thank you very much. So
15 Mr. Dietderich, that's to you to respond, sort of, I guess,
16 in reply and the stay motion if there's anything else there,
17 and to hear your views on the estimation.

18 MR. DIETDERICH: I think we've consolidated our
19 two motions.

20 THE COURT: Yeah. At this point, that's probably
21 fair.

22 MR. DIETDERICH: All right. Let me just very
23 briefly mention the lift stay. The Debtor now has had an
24 opportunity to identify what's on the other side of the
25 scale in terms of prejudice. I would submit, Your Honor,

1 that even without mentioning discovery, which I do want to
2 speak to, there is indeed extreme prejudice to the FTX
3 estate if, you know, all of these issues that are so central
4 to it are decided in another forum before they can be
5 decided in FTX.

6 What's on the other side of the scale? Two things
7 were mentioned and only two things. There were lots of
8 words about a host of issues, unnecessary, et cetera. But
9 there were only two points that were made. The first was
10 that there's other collateral, Bitcoin, ETH, Solana, and
11 stablecoin that would need to be valued. With all due
12 respect, I can calculate the value of those by looking at a
13 spot price. We're not talking about those securities. They
14 have nothing special to do with FTX and they have absolutely
15 nothing to do with the Genesis Debtors. Stable coin is
16 stable and Bitcoin, ETH, and Solana are three of the most
17 liquid traded currencies.

18 The only other thing that was mentioned is that
19 the loan agreements are similar to other loan agreements.
20 We're not disputing there's loan agreements. We're not
21 disputing what they say. We can read them. Those are not
22 in dispute. So on one side of the scale, we have those two
23 issues. On the other side --

24 THE COURT: Well, but I --

25 MR. DIETDERICH: -- everything else.

1 THE COURT: -- back up for a second. I understood
2 the argument to be that if another judge is construing the
3 meaning of those loan agreements and in fact, those loan
4 agreements echo loan agreements that are also an issue in
5 this case and are central to sort of the Debtors'
6 understanding of its legal rights in this case.

7 MR. DIETDERICH: I'm aware of no dispute about
8 those loan agreements. I'm not. So if there's a dispute
9 about the loan agreements, Your Honor, we're happy to say,
10 let's have you decide the dispute about the contractual loan
11 agreement. This doesn't necessarily need to be, by the way,
12 Your Honor, an all or nothing question, with respect to
13 issues. But, right, balance of harms, lifting the stay. We
14 think it is crystal clear on the record now in front of Your
15 Honor that we have demonstrated extreme prejudice and the
16 Debtor has demonstrated really nothing but a question
17 hypothetically that there might be similar questions under a
18 loan agreement which again, I'm not aware that we dispute.
19 And so on that basis --

20 THE COURT: Well, I think that's -- I think it's a
21 bit of an overstatement, right, so I -- it's not beyond
22 imagining that the litigation in FTX among the other many
23 litigations in FTX that may occur, that this might take
24 years and that it might hold up distributions in this case
25 for years. So I think it's a bit glib to say they've

1 identified nothing. I mean, it's just -- it's clear that
2 there are serious issues that everybody's concerned about.
3 So I just don't want to be glib about minimizing the
4 concerns, so delay for years as the judge has received many
5 letters from many interested creditors in many cases about
6 delays, that's a serious concern for people.

7 MR. DIETDERICH: Your Honor, I didn't want to -- I
8 wanted to speak only to the balance of harms with respect to
9 the nature of the litigation. I agree with you that the
10 thing that is on the table now is very precise, delay in
11 distributions. That is the central allegation of prejudice
12 by the Genesis Debtors, both in terms of undue delay and in
13 terms of lifting the stay. And we know by their plan that
14 we've eliminated the other issues. We don't need to lift
15 the stay or to estimate for plan formation because they have
16 a plan. We don't need to do it for voting because the
17 estimation condition isn't satisfied until effectiveness,
18 Your Honor, until effectiveness.

19 We don't need to do it for confirmation. It's all
20 about distributions. It's all about undue delay in making
21 distributions. Well, Your Honor, there is no case cited
22 that delay in making distributions is itself undue delay.
23 Nothing. I've not seen --

24 THE COURT: But why wouldn't it be?

25 MR. DIETDERICH: Well, let me go to this, because

1 it goes to the nature of undue. So here's an example.
2 There are kinds of claims that are very complicated to
3 liquidate and created a delay by the nature of the claim,
4 right. So for example, in a mass tort context where you
5 need estimation because of the complexity of the factual
6 situation. There's something inherent about that claim,
7 right, that's different than a contract claim or a
8 preference claim or anything else that can actually be
9 liquidated in an ordinary proceeding.

10 FTX is complicated. It's not that complicated.
11 Once you resolve those basic preference issues, which we'll
12 have to do, everything else falls like rain. This is not
13 something that by its nature needs to be estimated. Now, of
14 course, it'd be nice to know what everybody gets. But
15 here's the problem with the Debtors' approach.

16 We are a creditor, too. We are entitled to the
17 same rights as any other creditor. We didn't --

18 THE COURT: But that -- nobody's disputing that,
19 but any creditor can have their claim estimated for a
20 variety of purposes and so I just don't understand why a
21 delay in distribution -- right, so you can see delays for
22 lots of reasons, lots of permutations. But the -- this one
23 is not complicated. It's to say that the size of this
24 claim, which is -- it is what it is, but because of its size
25 vis-à-vis the rest of the claim pool, you can't distribute a

1 nickel, whatever -- in whatever currency you have and
2 whatever percentage you would distribute to anybody because
3 of the size of the claim.

4 MR. TOBIN: That's -- Your Honor, let's go to
5 that, actually. Because remember, the Debtors are proposing
6 to estimate in their plan only for the purposes of
7 establishing a cap on distributions, right? In their plan,
8 it's an estimation for reserve purposes only. In fact,
9 they're reserving the ability to litigate the merits and
10 Your Honor is exactly right. That could happen here. That
11 could happen there, but the only estimation they're asking
12 for is an estimation to create a cap that allows them to
13 start making distributions, assuming that there's a maximum
14 distributable -- a maximum amount they need to reserve for
15 FTX.

16 Well, it's a very large claim but they have other
17 unsecured claims. So I believe that our initially asserted
18 claim is about 50 percent of the claims pool. I may not
19 have the number exactly right, but it's right around there.
20 So that means 50 percent of the distributions could be made
21 immediately. On top of that, Your Honor -- and this is
22 important -- we don't need to estimate because we are happy
23 at FTX, the Debtor has had virtually no contact with us. We
24 -- they've known about that we've existed for months.
25 That's the other problem with undue delay because if they

1 were really worried about undue delay, they would have
2 responded to us many months ago.

3 THE COURT: The claim was filed in May. Until you
4 get a claim, I'm not quite sure what you can actually do or
5 not do and whose obligation it is to act or not act. So I
6 I'm not -- ultimately, I'm not persuaded one way or the
7 other.

8 MR. DIETDERICH: Well, let's go to the numbers
9 because I think the numbers are relevant. So we think we're
10 about half the claims pool on the maximum articulated
11 amount. We are ready to stipulate -- stipulate -- the
12 maximum amount of our claim to allow distributions to go
13 forward at whatever amount makes sense based on our
14 fiduciary duties.

15 We don't even think it needs to be litigated, and
16 I'll give you an example and this is a very important
17 factor. We are waiting on information from the Debtors, but
18 we're very close to being able to confirm that the claims
19 for preferences off the exchange are claims against the non-
20 debtor GGCR.

21 Now there's, I said, there's two flavors of
22 preferences, exchange preferences and loan preferences. If
23 that's the case, we can reduce our claim amount against the
24 Debtors to a smaller number. Now, it's still a very, very,
25 very large number. It's \$1.9 billion approximately, but the

1 \$1.9 billion is about 35 percent of the claims pool.

2 So now, we're talking about a case in which two-
3 thirds of the money can be immediately distributed to
4 creditors. And let's compare this to Voyager. And I know
5 it's only a stipulation, but Judge Wiles was very clear what
6 his view was and Judge Wiles, you know, is consistent with
7 our review of every case we've ever seen. We have never
8 seen another bankruptcy judge resolve a preference out of
9 another judge's bankruptcy case, ever.

10 It hasn't come up often. This is a new territory,
11 right, but there was one case where it happened. The judge
12 said no, and Judge Wiles said no for Celsius and under the
13 guidance of what he said on the record at Celsius, we
14 negotiated a solution for Voyager.

15 Now that solution for Voyager also a liquidating
16 plan, the Voyager Debtor estimated just last month that
17 distributions if preferences are resolved in FTX's favor
18 will be 35 cents. And if every issue is resolved not in
19 FTX's favor in the Voyager Debtor's favor, distributions
20 will be 64 cents. That is an 82 percent increase, almost a
21 doubling of the amount of the claims pool that in the
22 Voyager case as confirmed and as running, and we're running,
23 as I said, at an accelerated proceeding to do it.

24 THE COURT: But to beat a dead horse, as I already
25 did with Ms. Vanlare, doesn't that counsel the notion of

1 taking this on a step-by-step basis? Right, every week that
2 passes, people roll the boulder further up the hill, whether
3 that's in the sense of having an understanding of their
4 claims, exchanging information, learning more about what the
5 claim should be, or what the party's positions are, and also
6 of having an understanding of how a claim and how a case is
7 going to unfold.

8 And so it is, I think, every judge's experience
9 that when folks have to litigate their rights theoretically,
10 those fights are always much worse than when folks have to
11 litigate their rights actually as they develop in real time,
12 real dollars, and real procedures.

13 And so I'll sort of return to what I said to Ms.
14 Vanlare, that doesn't it make sense for the next thing to
15 happen and you can slap labels on it a lot of different
16 ways, but for some discovery to happen for folks to
17 understand the nature of your claim, what it actually is and
18 isn't, what objections may or may not exist, to understand
19 then what a liquidation process might actually be and
20 (indiscernible) understand what an estimation process might
21 be and we'd have to do that anyway, under any view of the
22 world for any case anywhere, right?

23 So, exchanging information and trying to go
24 through discovery, whether it's for claim process, this
25 case, your case, these are things that all have to happen.

1 And that we revisit these issues at that time to figure out
2 where we are and what makes sense.

3 MR. DIETDERICH: So Your Honor, the -- maybe I
4 make a reaction to that, because the discovery can mean many
5 things. There are some questions that relate very closely
6 to Genesis such as the one I mentioned, which is did GGCI or
7 the Genesis Debtor receive the preferences off the exchange.
8 That's a factual question we should answer. If we need
9 discovery to answer, we should answer.

10 There's other kinds of discovery that go to our
11 case such as the depositions of our founders, right? The
12 expert valuation of FTT. Those are things that in all due
13 respect we do think that our -- that discovery needs to
14 happen in front of Judge Dorsey and should probably only
15 happen in front of Judge Dorsey.

16 Now, our claim, though, the amount of our claim,
17 we can reduce the amount of our claim from whatever it was
18 3.2 to 1.9 with the resolution of this factual question
19 related to Genesis. There may be other factual questions
20 related to Genesis that further reduce that claim and we're
21 more than happy to have discovery about those.

22 THE COURT: Well, we always -- in bankruptcy, we
23 always talk about discovery for different kinds of process,
24 right? There's plan discovery, there's claim discovery.
25 There can be estimation discovery and there -- they have

1 overlaps. Some of them are concentric circles that entirely
2 overlap, that have some overlap.

3 But to the extent that there's an issue of undue
4 delay here and argument, I don't know how I figure that out
5 unless I figure out what liquidation would look like
6 wherever it is versus therefore, what an estimation process
7 is proposed, what it looks like, because you can imagine a
8 world in which there are reserves set for purposes of
9 estimation based on an estimation process where claims are
10 actually litigated to their fullest somewhere else. And you
11 can imagine many other permutations. So I'm not suggesting
12 that's where I'm going. But I'm trying to assess, I'm
13 trying to apply some practical ideas to a very interesting,
14 fascinating set of legal questions.

15 But I just have trouble understanding for purposes
16 of anything, why further factual development isn't
17 absolutely necessary for the interest of everybody and that
18 that's something that's mentioned in your papers. It's
19 inherent in the nature of the comparison that's involved in
20 estimation and the assessment of undue delay. And I don't
21 know that judges are particularly concerned about
22 invocations of territoriality for purposes of discovery.
23 They're just not.

24 Now, what information do you have? What
25 information do you need? So, it's different if we're

1 talking about the criminal case, that's a whole other
2 different kettle of fish, but we're not talking about that,
3 right? So -- and nobody said that any of that has any
4 impact here. So that's kind of where I'm coming from to try
5 to figure out practical solutions to very interesting
6 problems that we could litigate up, down, and sideways
7 forever.

8 But I do have -- so I sort of gave Ms. Vanlare
9 some notion where it was. I do have concerns about lifting
10 the stay so that this entire set of problems is sent to
11 another case for whenever it's resolved, because that really
12 does implicate one of the specific Sonnax factors in terms
13 of disruption and impact on this bankruptcy.

14 And if I ended up there, I don't think I would
15 necessarily end up there now because I just don't think I
16 have the record for that and I think the record right now
17 implicates the kinds of concerns about the disruption to
18 this case. However, we've all learned that you never quite
19 can predict how cases work, what issues are resolved, what
20 issues aren't resolved. And so it is a developing picture.

21 So the answers today may not necessarily be the
22 same answers a month from now, two months from now, three
23 months from now. And so, rather than try to predict the
24 future, which judges frankly aren't any better at than the
25 parties, we try to do things incrementally in circumstances

1 like this.

2 And so again, my thought is that exchange of
3 information and doing discovery to get a handle on what
4 people's claims are, that also informs what the factor for
5 estimation seems to be a sensible thing to do. It also
6 helps to further the factual development that may become
7 relevant in considering stay issues in the future, but I do
8 currently have a real concern about lifting the stay so that
9 this issue is sort of entirely taken from this case to be
10 sent to Judge Dorsey.

11 Judge Dorsey and Delaware Court, wonderful. I
12 have nothing but nice things to say, but I don't know how
13 and where that's going to fit in that case and when, and
14 probably Judge Dorsey doesn't either at this point. And so
15 this case is on a track. There's already a claims deadline.
16 There isn't in FTX. It's further along. It seems to be,
17 frankly, a more discrete set of problems, not that they
18 aren't significant and interesting, but all that factors
19 into my views about the stay relief at this junction.

20 And so that's sort of where I am. I'm not making
21 any rulings. I'm happy to do that. But I want to just be
22 as candid with the parties as I can be in real time to just
23 show you where my thoughts are currently at the moment.

24 MR. DIETDERICH: So Your Honor, I have a practical
25 suggestion, I think, if I can maybe sum up then what I'm

1 hearing and put it into a process. And Ms. Vanlare, if get
2 any of this wrong, I don't mean to get ahead of you on it.
3 I've just kind of been taking notes and trying to be
4 constructive.

5 First, the plan talks -- we're focused on
6 distributions. We're focused on putting this estate in a
7 position where it can make as much distributions as it can
8 as quickly as it can, hopefully in a way that does minimal
9 prejudice to FTX's ability to resolve the merits of what it
10 needs to in its case. So it's a big difference whether this
11 is 50 percent of -- you know, 50 percent of the
12 distributions are permitted immediately or two-thirds or
13 three-quarters. Right? Those are meaningful and important
14 numbers and we are committed to making sure that number is
15 as modest as our fiduciary duties commit. We are not coming
16 into this case in order to make trouble. We're just coming
17 into this case as a prepetition creditor to preserve our
18 rights in what we think is a liquidating plan. The
19 estimation that's being proposed is to cap a claim. It's
20 not to resolve the merits of the claim. It's simply to cap
21 a claim to make distributions because again, distributions
22 have been the motivation for the prejudice the Debtor is
23 alleging.

24 The -- we can reduce that. I believe that there
25 are going to be certain kinds of things that are going to be

1 highly sensitive for FTX and other things that are not going
2 to be. And so I'd like at least some understanding that as
3 we think about discovery and discussions and the resolution
4 of issues, we'll start with the things that relate to
5 Genesis and then move into the things that relate to FTX.
6 You know, obviously, we'll be totally transparent with the
7 Debtor, as I believe we have been, but I see this more as a
8 question of Your Honor has not yet decided that there is
9 undue, you know, undue delay, that merits estimation, not
10 yet decided whether there's prejudice to lift the stay, not
11 that we are launching into full born, you know, merits
12 discovery.

13 THE COURT: Well, I'm not suggesting that. I'm
14 suggesting that there's some -- that there, the parties are
15 the best guide to this, that there is discovery necessary
16 that would further the needs of the parties and the cases,
17 right? And that's true for the Debtors here. It's -- but
18 it's also true for you, right? You want to know what it is,
19 if you were to have an estimation proceeding, what you're
20 actually fighting about. That was a line in one of your
21 papers, to say I don't know what kind of expert to hire.

22 At the same time, there clearly are different
23 issues that have different sensitivities to different
24 parties. I am mindful of that. I think everybody in the
25 virtual room is mindful of that. And so, I don't think we

1 need to necessarily tread on those concerns now, but
2 exchanging information is -- I can't see that that's a bad
3 thing, so I would think that what can come out of this is an
4 agreement about sharing information that each side thinks
5 would be helpful for its purposes.

6 I'm happy to sort of carry the stay motion if
7 folks are content to waive their 362(e) deadline or if we
8 can figure out some other procedural way to do it, and also
9 carry the estimation motion because I'm going to need more
10 specific information. Everybody has an interest in more
11 specific information, each of the parties, but also the
12 Court so that I can make appropriate findings. So again, my
13 thought is the more information I have and the parties have,
14 the better able we are to navigate the different series of -
15 - different issues and concerns that each of the parties
16 have.

17 It's -- it would be the best result to try to
18 minimize the impact that this case has on substantive issues
19 that are central to the FTX case, but it is also in the
20 interest of these Debtors to minimize the drag that FTX's
21 claim might have on the ability of this case to go forward.
22 I believe -- and bankruptcy professionals, you're all very
23 good at your jobs. These are the kinds of things you're
24 quite accomplished at navigating, based on all the concerns
25 you have and all the information you have.

1 And so I think exchanging information is one part
2 of it, but there also may be certain concessions that people
3 are able to work out to further the procedural posture. And
4 so, that's -- what I would appreciate is that the parties do
5 have a meet and confer to try to figure out next steps. I'm
6 not interested in pushing this off for any indefinite amount
7 of time, but my thought would be to have a check-in, you
8 know, and whenever the parties think it's appropriate.
9 There's -- each party has a motion, so each party each party
10 has a right to be heard. And so, everybody has a right to
11 have access to the Court on that.

12 So, I'm happy to check in, in ten days, two weeks,
13 whatever it is, to figure out where we are and the best ways
14 to move forward, but I do think there's some tangible steps
15 heard about reductions, potential reductions to the claim
16 based on information. And I'm sure that there are certain
17 issues that are of most importance that's been fleshed out,
18 I think during today's hearing in a way that I thought was
19 helpful. So that's where I am and I do think a meet and
20 confer would be the next step and I'm happy to get back
21 together with the parties whenever the parties think that's
22 appropriate.

23 I'm not trying to give anybody a stiff arm in a
24 way where delay becomes its own complicating factor, but I
25 am trying to let you all do your jobs in a way that can help

1 further the interest of this case, while not unduly
2 hampering the FTX case.

3 MR. DIETDERICH: Thank you, Your Honor. On our
4 side for the FTX Debtors, we're fine with a double carry and
5 we're happy, obviously, with a meet and confer and ready to
6 get started right away.

7 THE COURT: All right. Ms. Vanlare, your
8 thoughts?

9 MS. VANLARE: No, thank you, Your Honor. Just,
10 first because I can't help myself, I do think that Mr.
11 Dietderich somewhat mischaracterized our position on
12 estimation, which I know we're sort of preserving, but it's
13 not just a question of distributions, right? It's also a
14 question of retaining our ability to reach a consensual
15 resolution to these cases, which is huge.

16 THE COURT: And I did hear you on that.

17 MS. VANLARE: Okay.

18 THE COURT: And part of my interest in a meet and
19 confer is that also does, I think, hopefully further that
20 interest.

21 MS. VANLARE: Yes.

22 THE COURT: Right? In the context of these
23 motions.

24 MS. VANLARE: And we are seeking estimation for
25 all purposes just to be clear. But Your Honor, I think your

1 suggestion of letting the parties proceed to discovery meet,
2 I think, all of that makes eminent sense. I think that, you
3 know, from our perspective, as long as we preserve, again,
4 the timeline, we're fine with this and so, we take your
5 instruction to do again what we were intending to do and
6 hoping to do anyway, which is to sort of jump right into
7 meet and confers and an expedited discovery schedule and
8 then come back to Your Honor to check in.

9 And if, you know, if we feel like we are not
10 progressing on the speed that we need to progress, we would
11 appreciate certainly an opportunity to come before you and
12 talk to you about that so that we can make sure that we are
13 remaining on pace.

14 THE COURT: Yeah, I think part of the social
15 compact when judges do things like this is to be available,
16 for anything and everything that might come up as a result.
17 So I'm at the judicial conference next week, but I can make
18 myself available if that -- the need, if it can be helpful
19 and I'll be guided by you all. So you'll reach out to
20 chambers and let us know if a call would be helpful in terms
21 of the status.

22 And so you can also let me know, I don't want to
23 leave here without having another sort of date for things.
24 I know that we have a number of dates already on the
25 calendar for this case. Give me a second. I have those

1 written down in various places and I'm sure you do as well.

2 So I certainly want to have, that sort of on the
3 record but I think the next day we have, I think is July --

4 MS. VANLARE: That's correct, Your Honor.

5 THE COURT: And so we could use that just as a
6 formal day, but that does not preclude parties if you want
7 to chat next week or you wanted to -- you know, whenever.
8 I'll make myself available. So, but I would adjourn the two
9 motions until that date. I would choose adjourning rather
10 than making some sort of interim ruling or ruling without
11 prejudice to reassertion just because I'm not interested in
12 people having to refile anything. It's a waste of your
13 time. So that would be fine.

14 So we'll use July 6th as sort of a holding date
15 for the two motions and again, I'll be guided by what you
16 might need between now and that date. If you reach
17 agreements and you want us to get something, whether it's a
18 letter or stipulation,, whatever is most convenient and
19 efficient for me to so-order, I'm happy to do that. Again,
20 I'll be guided by your collective wisdom on that.

21 MR. DIETDERICH: Your Honor, may be heard on just
22 one point?

23 THE COURT: Sure.

24 MR. DIETDERICH: Because Ms. Vanlare -- I thought
25 we were done and then Ms. Vanlare just said something in her

1 last remarks that I find highly, highly problematic. She
2 says we were estimating for all purposes. So I think, and
3 I'd like clarification on exactly what we're talking about,
4 the plan has estimation for reserve purposes to make
5 distributions only. Their pleading is completely ambiguous,
6 what they're meaning to do. The plan says estimation to set
7 a cap for distribution purposes.

8 Obviously, if the Debtor is reserving the rights
9 to estimate this claim for the purposes of allowance or
10 determination, that's a completely different proposition.
11 And so I don't know if Your Honor is in a position today,
12 but I would just submit that we've had a discussion that up
13 until that moment was all about estimation to allow
14 distributions to happen. Merits estimation of these matters
15 is -- would be quite a different, you know, can of worms.
16 Now, I don't know if Your Honor is in a position to deny the
17 motion other than for estimation for distribution purposes.

18 That would certainly be our preference because we
19 think there's been no showing, nor could there be any
20 showing with their plan on file that there's any basis to
21 make, to estimate for anything other than distributed
22 purposes. But I just wanted to make sure that was clear
23 because we strongly, strongly object both to the lack of
24 communication with us, the lack of clarity on what they want
25 or what they're asking for, and to the idea that as a threat

1 to our estate at the last moment, they put in this idea of
2 merits, not distributional estimation.

3 THE COURT: All right. Well, my intent was not to
4 make a ruling today on the motion other than to direct the
5 parties to meet and confer and to work on information
6 exchange as well as identification of issues that might be
7 dealt with specific issues and some issues in a more nuanced
8 way, respecting that the issues that you've identified, Mr.
9 Dietderich, are, you know, particular concerns to FTX or not
10 necessarily the same issues that are on the top of Ms.
11 Vanlare's list.

12 So Ms. Vanlare, I'll ask you. I'm -- what I took
13 your comment to be is that you filed your motion. Whatever
14 you sought it in your motion, you reserve to seek all those
15 rights. That's how I took it, but maybe there's something
16 more worth saying.

17 MS. VANLARE: I just want to respond. I mean, I
18 think our motion is clear. Our papers were clear. We are
19 seeking to estimate for all purposes. I had conversations
20 with Mr. Dietderich's colleagues, so I just want to be very
21 clear that I think we've been clear and again, it's not for
22 today but, it's certainly not something that is new that's
23 coming up today. So I just wanted to respond.

24 THE COURT: Yeah. So my intent is to not make a
25 ruling today. The one thing I will say, which I thought

1 where Mr. Dietderich was going, is when you said, well, as
2 long as we're preserving on the schedule that we've
3 contemplated. My thought is that I'm agreeing that
4 discovery and exchange of information needs to happen. I'm
5 not making it -- I'm not throwing any cold water on
6 anybody's proposed schedule at this point, but nor am I
7 endorsing anybody's schedule at this point. It's all part
8 of the bigger picture.

9 So it's -- realize that that's particularly
10 opaque. I'm not trying to be clever, but again, consistent
11 with the, we're going to see how things develop over time,
12 that's really where I'm going. So I'm not trying to make a
13 ruling on a schedule, but I also just want to make it clear,
14 I'm not endorsing any particular schedule other than sort of
15 next steps. But I think the next steps are not inconsistent
16 with, Ms. Vanlare, what you suggest in your motion. So
17 we'll take it from there.

18 So, with that, let me ask, Ms. Vanlare if there's
19 anything else that you think we need to address here this
20 morning -- this afternoon?

21 MS. VANLARE: Not at this time, Your Honor, but I
22 would just reserve my -- it sounds like there may be others
23 who may want to speak. So I would like to just reserve an
24 opportunity to respond if --

25 THE COURT: All right. Mr. Dietderich --

1 MS. VANLARE: -- any other issues that may come
2 up.

3 THE COURT: All right. Mr. Dietderich, that same
4 question to you.

5 MR. DIETDERICH: I'm done, Your Honor. This is
6 clear. We'll talk with the Debtor and we'll get to the
7 bottom of it. We do appreciate your clarification on the
8 schedule. I thought that was assumed, but we obviously
9 would have a completely different view on the schedule
10 depending on the scope of what's being estimated and whether
11 it's distribution or merits.

12 THE COURT: Well, again, I think people have an
13 idea of what they -- you know, again, discovery is the
14 perfect example of fighting about the theoretical versus
15 fighting about the actual. One is -- fighting about
16 theoretical discovery rights is almost uniformly a
17 nightmare. So my thought is that everybody has things that
18 they -- at the top of their list, so let's deal with the
19 things at the top of the list that are the things that are
20 most essential to essentially unlock the next the next steps
21 in the case.

22 So, all right. So with that, I realize I've heard
23 only from two parties. I know there are plenty of other
24 parties here who have joined in papers and joined in
25 arguments and I've read all those. I'm happy to give those

1 folks an opportunity to be heard. I also don't want to
2 snatch, sort of, defeat from the jaws of a victory in the
3 sense of having a sense of where we're going at this point.
4 But let me at least give folks a chance to be heard. So
5 I'll start with the Official Committee in the Genesis case,
6 Mr. Shore.

7 MR. SHORE: Thank you, Your Honor. Again, Chris
8 Shore from White & Case on behalf of the Official Committee.
9 I understand, Your Honor, what Your Honor said and taking a
10 pause and see if we can't work something out. We'll work
11 with the Debtors to do that and see if we can't come up to a
12 solution that solves everyone's needs. If we can't, I don't
13 think you need to hear from me today. I'm going to give
14 peace a chance here, but if we're not able to get there, I
15 do want to provide Your Honor with the Committee's views
16 that not all delays are equal.

17 There are specific issues in crypto cases that
18 anything that's going to affect this timeline needs to be
19 looked at very carefully and also our view that given what
20 the parties have laid out with their respective positions, I
21 actually think estimation and setting up an estimation
22 procedure has benefits beyond just distribution.

23 It can address what Your Honor called the ripple
24 effects of any ruling you might make. It can give parties
25 insight and make it more likely to be able to settle with

1 DCG. There are a number of other factors that having an
2 estimation hearing on -- in front of Your Honor and not
3 waiting until after plan confirmation to address it, there
4 may be some real benefits which we'd like you to hear us on.

5 THE COURT: All right, that's all fair points and
6 I trust you will share those with other interested parties
7 as part of ongoing discussions.

8 So, let me hear from Mr. Rosen on behalf of the Ad
9 Hoc Group.

10 MR. ROSEN: Thank you, Your Honor, and I will not
11 belabor the point. It's been a thorough and an exhaustive
12 conversation that's gone on for the last hour-plus. We, as
13 you know, Your Honor, did finally joinder with respect to
14 the FT -- excuse me, the Debtors' position on the lift stay.
15 We joined in the Debtors' position with respect to
16 estimation.

17 Like Mr. Shore, we've been working collaboratively
18 with the UCC and with the Debtors on this project and we
19 will continue to do so. But like what Mr. Shore said, in
20 the event that peace does not break out, we will actively be
21 involved in the litigation. But for now, Your Honor, you
22 know, we agree with you. Let's see what can be done on a
23 collaborative basis and see if we can reach some sort of
24 closure. Thank you, Your Honor.

25 THE COURT: All right. Thank you very much. And

1 I know that there is an Official Committee on behalf of the
2 FTX Debtors.

3 MR. PASQUALE: Thank you, Your Honor. Ken
4 Pasquale from Paul Hastings with the FTX Committee. All I
5 wanted to make sure, Your Honor, is that our Committee is
6 involved in what we've been discussing today. There was a
7 footnote in the Debtors' papers about reserving the right to
8 object to our standing. Obviously, our Committee has a
9 significant duty to fulfill to the creditors in our case and
10 we can argue about standing later if need be. But for
11 present purposes, we just want to make sure our committee is
12 not excluded from the discussions that Your Honor has
13 directed today.

14 THE COURT: All right. Thank you very much. I
15 appreciate that. Anyone else who wishes to be heard?

16 All right. So I certainly, several --

17 MR. UPTEGROVE: Your Honor?

18 THE COURT: Yes, go ahead, please.

19 MR. UPTEGROVE: William Uptegrove. Good morning,
20 Your Honor. William Uptegrove on behalf of the United
21 States Securities and Exchange Commission. May I be heard
22 on an unrelated issue? I'll be brief.

23 THE COURT: Sure.

24 MR. UPTEGROVE: To just note at the outset that
25 the SEC is a creditor here, having filed an enforcement

1 action against Debtor Genesis Global Capital for violation
2 of Section 5 of the Securities Act.

3 Regarding our concerns and the issue I wanted to
4 raise today, the Debtor filed its amended plan and
5 disclosure statement earlier this week and then last week,
6 the Debtor filed a notice in which they scheduled objections
7 to approve -- to the approval of the disclosure statement
8 for July 5th with a hearing on July 12th, the day after the
9 auction in this case is scheduled, if there's going to be
10 one.

11 Your Honor, we just have a couple of concerns here
12 about timing. First, as we read it, Rule 2002(b) provides
13 that notice for filing objections to the approval of
14 disclosure statement shall be on not less than 28 days'
15 notice. Twenty-eight days from the filing here is July
16 11th, not July 5th. Second, there's just practical
17 realities.

18 THE COURT: So I think I got your gist. The one
19 thing I -- let me ask Ms. Vanlare. I don't know if anybody
20 picked up the phone and called anybody because that's,
21 that's always a better option than speaking exclusively
22 through me. So here's what I'm going to do. I'm going to
23 give you a chance to chat. Obviously, process is really
24 important and if people can't reach sort of an appropriate
25 way to address this, I'm happy to address it. And so what I

1 would say is, you know, I may be getting a call or an update
2 next week at some point about where things stand and I'd ask
3 if that -- people can let me know if there's still an
4 outstanding issue about any timing.

5 Obviously, people need time and obviously I
6 understand the desire of the Debtors to move forward, but I
7 at least want to give the parties a chance to have a chance
8 to talk first and I think that that's probably the
9 appropriate first step. Not -- and if I need to make a
10 ruling or adjust dates, I'll do that, but it's -- again,
11 this is the downside of the virtual hearing.

12 What I would do in -- used to be together, is give
13 you a minute to actually cross the aisle and talk to one
14 another, which is really the preferred way to get a lot of
15 business done and that's why a bunch of my cases, anything
16 that's contested, I'm going to -- I'm starting to bring
17 people back because it's just easier to deal with things
18 like this.

19 MS. VANLARE: Your Honor, thank you. We're always
20 open to trying to resolve issues before they reach Your
21 Honor and certainly welcome Mr. Uptegrove contacting us. We
22 speak regularly, in fact, so we're happy to hear his
23 concerns and if they're not resolved, bring them before Your
24 Honor. But certainly happy to do that.

25 MR. UPTEGROVE: Thank you, Your Honor. Just one

1 last point is that this was an issue that we raised so we'll
2 raise it again on a phone call and see if we come up with a
3 different --

4 THE COURT: All right. That's fair. All right.
5 I -- that's fine. I don't want to get into sort of who said
6 what to whom. I -- judges are uniquely in a poor position
7 to decipher those things, having been in my former life,
8 seeing judges sort of misconstrue who had actually said what
9 to whom and I've learned it's -- I only see the tip of the
10 iceberg so I'll refrain from jumping into that, but I'm
11 never going to fault anybody for raising an issue so that we
12 can make sure that it does get addressed. So perfectly
13 fine. And again, if you can't get there, you'll let me know
14 and we'll figure that.

15 All right, anybody else who wishes to be heard?
16 All right. So I'll just end with the comment that several
17 people said they hope peace breaks out. I guess I would
18 agree with that but I also want people to understand I'm not
19 trying to punt this for peace necessarily. Peace is fine.
20 My -- I guess I'd use a different P word, which is progress,
21 right?

22 So there are a number of issues that are raised in
23 the various pleadings that are -- that cry out for progress
24 on some specific fronts to allow us to make more intelligent
25 decisions among the parties and for a Court to make a more

1 intelligent and well-grounded decision. So I -- we all
2 aspire to peace but we hope for progress and enough progress
3 that it turns into peace.

4 So, but thank you very much for everybody's
5 carefully crafted and thoughtful arguments today on what are
6 very interesting issues. I appreciate it. And so if
7 anybody ever wants to torture a series of law students an
8 advanced Chapter 11 bankruptcy, you have a perfect fact
9 pattern that you can rip from the pages of the news. So
10 with that, thank you all very much. Look forward to
11 speaking with you all soon. Be well.

12 MR. DIETDERICH: Thank you, Your Honor.

13 MS. DIERS: Thank you, Your Honor.

14 MS. VANLARE: Thank you.

15 (Whereupon these proceedings were concluded at
16 12:58 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: June 22, 2023

[& - addition]

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Exhibit B

Confidential

Subject to Federal Rule of Evidence 408 & Rules of Similar Import

Genesis – Potential Defenses to Alameda and FTX Preference Claims

#	Potential Defense ¹	Evidence Required
1	Solvency § 547(b)(3)	Anticipate document and testimonial discovery on solvency of FTX and Alameda. Anticipate valuation expert report.
2	Collateralization § 547(b)(5)	Anticipate factual evidence can be satisfied by stipulated facts.
3	Contemporaneous New Value Defense § 547(c)(1)	Anticipate factual evidence can be satisfied by stipulated facts.
4	Ordinary Course Defense § 547(c)(2)	Anticipate document and testimonial discovery on the parties' course of dealing. Anticipate expert discovery on ordinary industry terms.
5	Subsequent New Value Defense § 547(c)(4)	Anticipate factual evidence can be satisfied by stipulated facts.
6	Customer Property § 541(d)	Anticipate factual evidence on governing terms and conditions can be satisfied by stipulated facts. Anticipate foreign law expert declarations. Anticipate document and testimonial discovery regarding ownership of transferred property.

¹ Genesis expressly reserves its right to alter any of the defenses included herein or to assert any other of its available defenses.

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Subject to Federal Rule of Evidence 408 & Rules of Similar Import

#	Potential Defense ¹	Evidence Required
7	Safe Harbor Defense § 546(e)	Need to understand whether there are any factual disputes on parties' status as entities subject to safe harbor protections. If so, would anticipate limited factual stipulation and expert submissions.
8	FTT Valuation Defense	Anticipate document and testimonial discovery and expert report on value of FTT.
9	Wrong Entity Defense	Anticipate factual evidence can be satisfied by stipulated facts.